

§ 1.956

38 CFR Ch. I (7–1–08 Edition)

One of the two members should be knowledgeable in the program area where the debt arose. If the two member panel cannot reach a unanimous decision, the Chairperson shall assign a third member of the Committee to the panel, or assign the case to three new members, and the majority vote shall determine the Committee decision.

(3) The assignment of a one or two member panel as described in paragraph (e)(2) of this section is applicable if the debtor files a Notice of Disagreement with a Committee decision to deny waiver. That is, if the Notice of Disagreement is filed with a decision by a one member panel to deny waiver of collection of a debt of \$20,000 or less, then the Notice of Disagreement should also be assigned to one panel member. Likewise, a Notice of Disagreement filed with a decision by a two or three member panel to deny waiver of collection of a debt of more than \$20,000 should also be assigned to a Committee panel of two members (three if these two members cannot agree). However, a Chairperson must assign the Notice of Disagreement to a different one, two, or three member panel than the panel that made the original Committee decision that is now the subject of the Notice of Disagreement.

(Authority: 5 U.S.C. 5584, 31 U.S.C. 3711, 38 U.S.C. 3720(a), 5302)

[44 FR 59905, Oct. 17, 1979, as amended at 48 FR 1056, Jan. 10, 1983; 54 FR 40871, Oct. 4, 1989; 57 FR 47264, Oct. 15, 1992; 60 FR 53276, Oct. 13, 1995; 69 FR 62201, Oct. 25, 2004]

§ 1.956 Jurisdiction.

(a) The regional office Committees are authorized, except as to determinations under § 2.6(e)(4)(i) of this chapter where applicable, to consider and determine as limited in §§ 1.955 *et seq.*, settlement, compromise and/or waiver concerning the following debts and overpayments:

(1) Arising out of operations of the Veterans Benefits Administration:

(i) Overpayment or erroneous payments of pension, compensation, dependency and indemnity compensation, burial allowances, plot allowance, subsistence allowance, education (includes debts from work study and education loan defaults as well as from other

overpayments of educational assistance benefits) or insurance benefits, clothing allowance and automobile or other conveyance and adaptive equipment allowances.

(ii) Debts arising out of the loan program under 38 U.S.C. ch. 37 after liquidation of security, if any.

(iii) Such other debts as may be specifically designated by the Under Secretary for Benefits.

(2) Arising out of operations of the Veterans Health Services and Research Administration:

(i) Debts resulting from services furnished in error (§ 17.101(a) of this chapter).

(ii) Debts resulting from services furnished in a medical emergency (§ 17.101(b) of this chapter).

(iii) Other claims arising in connection with transactions of the Veterans Health Administration (§ 17.103(c) of this chapter).

(iv) Fiscal officers at VA medical facilities are authorized to waive veterans' debts arising from medical care copayments (§ 17.105(c) of this chapter).

(3) Claims for erroneous payments of pay and allowances, and erroneous payments of travel, transportation, and relocation expenses and allowances, made to or on behalf of employees (5 U.S.C. 5584).

(b) The Under Secretary for Benefits may, at his or her discretion, assume original jurisdiction and establish an ad hoc Board to determine a particular issue arising within this section.

(Authority: 38 U.S.C. 501)

[39 FR 26400, July 19, 1974, as amended at 44 FR 59905, Oct. 17, 1979; 60 FR 53276, Oct. 13, 1995; 69 FR 62201, Oct. 25, 2004]

§ 1.957 Committee authority.

(a) *Regional office committee.* On matters covered in § 1.956, the regional office Committee is authorized to determine the following issues:

(1) *Waivers.* A decision may be rendered to grant or deny waiver of collection of a debt in the following debt categories:

(i) Loan guaranty program (38 U.S.C. 5302(b)). Committees may consider waiver of the indebtedness of a veteran or spouse resulting from: (A) The payment of a claim under the guaranty or insurance of loans, (B) the liquidation

Department of Veterans Affairs

§ 1.959

of direct loans, (C) the liquidation of loans acquired under § 36.4318, and (D) the liquidation of vendee accounts. The phrase *veteran or spouse* includes a veteran-borrower, veteran-transferee, a veteran-purchaser on a vendee account, a former spouse or surviving spouse of a veteran.

(ii) Other than loan guaranty program. (38 U.S.C. 5302(a))

(iii) Services erroneously furnished (§ 17.101(a)).

(2) *Compromises*—(i) *Loan program debts* (38 U.S.C. 3720(a)). Accept or reject a compromise offer irrespective of the amount of the debt (loan program matters under 38 U.S.C. chapter 37 are unlimited as to amount).

(ii) Other than loan program debts (31 U.S.C. 3711).

(A) Accept or reject a compromise offer on a debt which exceeds \$1,000 but which is not over \$100,000 (both amounts exclusive of interest and other late payment charges).

(B) Accept or reject a compromise offer on a debt of a \$1,000 or less, exclusive of interest and other late payment charges, which is not disposed of by the Chief, Fiscal activity, pursuant to paragraph (b) of this section.

(C) Reject a compromise offer on a debt which exceeds \$100,000, exclusive of interest and other late payment charges.

(D) Recommend approval of a compromise offer on a debt which exceeds \$100,000, exclusive of interest and other late payment charges. The authority to accept a compromise offer on such a debt rests solely within the jurisdiction of the Department of Justice. The Committee should evaluate a compromise offer on a debt in excess of \$100,000, using the factors set forth in §§ 1.930 through 1.938. If the Committee believes that the compromise offer is advantageous to the government, then the Committee members shall so state this conclusion in a written memorandum of recommendation of approval to the Chairperson. This recommendation, along with a Claims Collection Litigation Report (CCLR) completed in accordance with § 1.951, will be referred to VA Central Office, Office of Financial Management (047G7), for submission

to the Department of Justice for final approval.

(Authority: 31 U.S.C. 3711)

(b) *Chief of Fiscal activity*. The Chief of the Fiscal activity at both VBA and VHA offices has the authority, as to debts within his/her jurisdiction, to:

(1) On other than loan program debts under 38 U.S.C. chapter 37, accept compromise offers of 50% or more of a total debt not in excess of \$1,000, exclusive of interest and other late payment charges, regardless of whether or not there has been a prior denial of waiver.

(2) On other than loan program debts under 38 U.S.C. chapter 37, reject any offer of compromise of a total debt not in excess of \$1,000, exclusive of interest and other late payment charges, regardless of whether or not there has been a prior denial of waiver.

(3) On other than loan guaranty program debts under 38 U.S.C. chapter 37, reject any offer of compromise of a total debt not in excess of \$1,000, exclusive of interest, regardless of whether or not there has been a prior denial of waiver.

(Authority: 31 U.S.C. 3711 and 38 U.S.C. 3720(a))

[44 FR 59906, Oct. 17, 1979, as amended at 51 FR 38803, Sept. 25, 1985; 52 FR 42112, Nov. 3, 1987; 57 FR 47264, Oct. 15, 1992; 60 FR 53276, Oct. 13, 1995; 69 FR 62201, Oct. 25, 2004]

§ 1.958 Finality of decisions.

A decision by the regional office Committee, operating within the scope of its authority, denying waiver of all or part of a debt arising out of participation in a VA benefit or home loan program, is subject to appeal in accordance with 38 CFR parts 19 and 20. A denial of waiver of an erroneous payment of pay and allowances is subject to appeal in accordance with § 1.963a(a). There is no right of appeal from a decision rejecting a compromise offer.

(Authority: 38 U.S.C. 501 and 7104).

[69 FR 62201, Oct. 25, 2004]

§ 1.959 Records and certificates.

The Chairperson of the Committee shall execute or certify any documents pertaining to its proceedings. He/she will be responsible for maintaining needed records of the transactions of